FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Second Appeal No. 182 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATE : 6th April, 2007.

Heard Shri Bhamburkar, learned counsel for the appellant and Shri Chandurkar, learned counsel for the respondent.

The appellant is the original defendant. A suit was filed by the plaintiff for a declaration that the plaintiff is the owner of the cattle shed specifically described in the plaint and the defendant be directed to handover the possession of the cattle shed to the plaintiff.

It was not in dispute that the field properties belonging to the family were partitioned in the year 1980. The present Kotha/cattle shed was situated in the property which fell to the share of the plaintiff. The Courts, after considering the evidence on record, came to a conclusion that the plaintiff was the owner of the cattle shed. As the

house properties belonging to the family were not partitioned, the Courts directed the plaintiff to effect the partition of the house properties. The suit property is, however, not the house property but is merely a Kotha/cattle shed which is situated in the field which fell to the share of the plaintiff. In view of the aforesaid fact, both the Courts held that the plaintiff was the owner of the property and since the possession of the defendant over the suit property was only permissive, the plaintiff was entitled to a decree for possession.

The findings recorded by both the Courts are pure findings of fact which do not give rise to a substantial question of law.

The Second Appeal is, therefore, dismissed with no order as to costs.

JUDGE

APTE